

Message Text

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FM SECSTATE WASHDC

TO AMEMBASSY MOSCOW

C O N F I D E N T I A L STATE 138346

E. O. 11652 GDS

TAGS: PFOR, OGEN, UR

SUBJECT: FREEDOM OF INFORMATION

1. THE DEPARTMENT MAY SOON BE ENGAGED IN SEVERAL COURT CASES WHERE IT WILL SEEK TO ENSURE THE CONTINUED CLASSIFICATION OF DIPLOMATIC DOCUMENTS WHICH SPELL OUT IN SOME DETAIL THE INVOLVEMENT AND VIEWS OF VARIOUS SOVIET OFFICIALS, INCLUDING THOSE OF THE HIGHEST RANKS. THE DEPARTMENT WILL ARGUE THAT THESE DOCUMENTS SHOULD REMAIN CLASSIFIED SINCE THEY INVOLVE "... INFORMATION OR MATERIAL FURNISHED BY FOREIGN GOVERNMENTS ... AND HELD BY THE US ON THE UNDERSTANDING THAT IT BE KEPT IN CONFIDENCE" (SEC(5) (B) (1) OF EO 11652). OBVIOUSLY THE SOVIETS DO NOT PREFACE ALL OF THEIR EXCHANGES MADE IN A DIPLOMATIC CONTEXT WITH SPECIFIC ADMONITIONS THAT THEY UNDERSTAND THE EXCHANGES WOULD BE KEPT CONFIDENTIAL. WE BASE OUR JUDGMENT ON 1) THE COMMONLY ACCEPTED MODALITIES OF DIPLOMATIC PRACTICE AMONG ALL NATIONS AND 2) PARTICULAR CONFIDENTIAL

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SOVIET SENSITIVITIES ABOUT THE RELEASE OF GOVERNMENTAL

INFORMATION.

2. IN THE PRESENT SITUATION WE WOULD FIND MOST USEFUL
A CURRENT STATEMENT OF SOVIET ATTITUDES TOWARD THE RE-

LEASE BY THE USG OF INFORMATION PROVIDED BY THE SOVIETS
IN A DIPLOMATIC CONTEXT. REQUEST THAT THE EMBASSY
APPROACH THE MFA AT THE EARLIEST OPPORTUNITY AT AN
APPROPRIATE LEVEL ALONG THE FOLLOWING LINES:

A. UNDER THE TERMS OF RECENT LEGISLATION, ANYONE MAY
SEEK THE DECLASSIFICATION OF CLASSIFIED GOVERNMENT
DOCUMENTS. THE GOVERNMENT MAY DENY THIS REQUEST ON CER-
TAIN GROUNDS; ONE IS THAT THE DOCUMENT INVOLVES THE PRO-
VISION OF CLASSIFIED INFORMATION BY A GOVERNMENT ON THE
UNDERSTANDING THAT THE USG WOULD KEEP THIS INFORMATION
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B. UNDER THE LEGISLATION, IF THE USG DECLINES TO RELEASE
CERTAIN INFORMATION THE PERSON SEEKING THE INFORMATION
MAY GO TO THE US COURTS AND REQUIRE THAT THE USG DEFEND
ITS DENIAL.

C. WE MAY PRESENTLY HAVE SUCH CASES INVOLVING SUCH
DOCUMENTS AS MEMORANDA OF CONVERSATION, AIDE MEMOIRES,
REPORTS AND DIPLOMATIC CABLES. THE DOCUMENTS CONCERNED
RECOUNT DIPLOMATIC EXCHANGES WHICH HAVE TAKEN PLACE WITHIN
RECENT YEARS. SOME OF THESE CONTAIN THE VIEWS AND
POSITIONS OF SOVIET OFFICIALS.

D. WE WOULD BE INTERESTED IN HAVING A STATEMENT OF SOVIET
POLICY ON RELEASING PUBLICLY SUCH MATERIAL. WE ARE ALSO
DIRECTING SIMILAR INQUIRIES TO CERTAIN OTHER GOVERNMENTS.

3. IN MAKING THIS APPROACH, EMB SHOULD MAKE CLEAR THAT
WE ARE SEEKING A STATEMENT OF SOVIET POLICY AND NOT
ASKING THE SOVIETS TO REVIEW ANY SPECIFIC DOCUMENTS. IF
THE SOVIET SIDE IS AMENABLE, IT WOULD BE MOST USEFUL IF
SUCH A STATEMENT OF SOVIET POLICY COULD BE PROVIDED IN
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